

American Battle Monuments Commission

§ 404.1

the memorial by the Commission, using funds provided by the sponsors, in which case user charges will be made in accordance with general Government policy.

[35 FR 19666, Dec. 29, 1970]

PART 402—ERECTION OF WAR MEMORIALS IN FOREIGN COUNTRIES BY AMERICAN CITIZENS, STATES, MUNICIPALITIES, OR ASSOCIATIONS

AUTHORITY: Sec. 3, 70 Stat. 640, 641; 5 U.S.C. 132 note, 36 U.S.C. 123, 125; E.O. 6614, E.O. 9704, 11 FR 2675, 3 CFR 1943-1948 Comp., p. 519, E.O. 10057, 10087, 14 FR 2585, 7287, 3 CFR, 1949-1953 Comp., pp. 269, 285.

§ 402.1 Restrictions on erection.

(a) No administrative agency of the United States shall give assistance to American citizens, States, municipalities, or associations in erecting any war memorial outside the continental United States unless the plan has been approved in accordance with § 401.1 above.

(b) It is the opinion of the Commission that no battlefield memorial should be erected to any unit smaller than a division or comparable unit or to an individual, unless the services of such unit or individual clearly were of such distinguished character as to warrant a separate memorial.

(c) It is the opinion of the Commission that, as a general rule, memorials should be erected to organizations rather than to troops from a particular locality of the United States.

(d) The policy of the Commission is to approve plans for memorials in foreign countries only in cases in which the sponsors make adequate and permanent arrangements for their maintenance. If the sponsors so desire, the Commission will maintain such memorials, including those previously existing which it deems worthy of preservation, using funds provided by the sponsors; in such cases it will make user charges in accordance with general Government policy.

[35 FR 19666, Dec. 29, 1970]

PART 403—ERECTION OF MEMORIAL MONUMENTS, BUILDINGS, AND HEADSTONES IN AMERICAN CEMETERIES LOCATED OUTSIDE THE UNITED STATES AND ITS TERRITORIES AND POSSESSIONS

AUTHORITY: Sec. 3, 70 Stat. 641; 36 U.S.C. 123; E.O. 6614, Feb. 26, 1934; E.O. 9704, 3 CFR, 1943-1948 Comp., 519; E.O. 10057, 10087, 3 CFR 1949-1953 Comp., pp. 269, 285.

§ 403.1 Restrictions on erection.

(a) No memorial monuments or buildings shall be placed in these cemeteries unless the design and site have been approved by the American Battle Monuments Commission. No steps toward the erection of any memorial monument or building in these cemeteries should be taken until the idea has first been approved by the American Battle Monuments Commission.

(b) There shall be no variation in the types of headstones officially adopted for use in American cemeteries located outside the United States and its Territories and possessions.

[13 FR 6812, Nov. 19, 1948, as amended at 23 FR 9780, Dec. 19, 1958]

PART 404—PROCEDURES AND GUIDELINES FOR COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT

Sec.

- 404.1 Purpose.
- 404.2 General policy.
- 404.3 Response to requests.
- 404.4 Denial of access.
- 404.5 Appeals.
- 404.6 Fees to be charged.
- 404.7 Assessment and collection of fees.
- 404.8 Categories of requesters.
- 404.9 Waiver of fees.
- 404.10 Maintenance of statistics.

AUTHORITY: 5 U.S.C. 552.

SOURCE: 53 FR 120, Jan. 5, 1988, unless otherwise noted.

§ 404.1 Purpose.

These guidelines prescribe procedures to obtain information and records of the American Battle Monuments Commission under the Freedom of Information Act of 1986, 5 U.S.C. 552(a)(4)(A)(i).

§ 404.2

This act requires each agency to promulgate regulations that specify the schedule of fees for processing FOIA requests and the guidelines when fees may be waived. It applies only to records and information of the Commission which are in the Commission's custody.

§ 404.2 General policy.

Public requests for information from the records of the American Battle Monuments Commission should be sent to the Freedom of Information Representative, American Battle Monuments Commission, Room 5127, Casimir Pulaski Building, 20 Massachusetts Ave., NW., Washington, DC 20314. They may also be sent to its field offices at the addresses listed below:

(a) Officer-in-Charge, European Office, American Battle Monuments Commission, APO New York 09777.

(b) Officer-in-Charge, Mediterranean Office, American Battle Monuments Commission, APO New York 09794.

(c) Superintendent, Manila American Cemetery, FPO San Francisco 96528.

(d) Superintendent, Corozal American Cemetery, The American Battle Monuments Commission, Attn: AFZU-AG-CRB, Drawer #38, APO Miami, FL 34004-5000.

(e) Superintendent, Mexico City National Cemetery, American Battle Monuments Commission, c/o U.S. Embassy, Mexico, P.O. Box 3087, Laredo, TX 78044-3087.

§ 404.3 Response to requests.

(a) Except for records and information exempted from disclosure by 5 U.S.C. 552(a)(1), all records of the Commission or in its custody are available to any person who requests them.

(b) Requests for information from the public will be honored within ten working days unless the confidentiality of such information is protected by law, or when it is necessary to search and/or collect records in separate offices or another office of the Commission, which would usually require more than ten working days.

(c) Whenever information cannot be dispatched within ten work days after receipt of request, an interim reply will be sent informing the requester of the status of the request.

36 CFR Ch. IV (7-1-99 Edition)

(d) The records of the ABMC may be examined and copied between the hours of 8:00 a.m. and 3:30 p.m., Monday through Friday under the supervision of the Freedom of Information representative.

§ 404.4 Denial of access.

(a) Letters denying confidential information will be dispatched within ten working days of receipt of the request and will be signed by one of the below listed personnel:

(1) Officer-in-Charge, ABMC European Office.

(2) Officer-in-Charge, ABMC Mediterranean Office.

(3) Directors, ABMC Washington Office.

(4) Secretary, ABMC.

(b) Letters denying access to information will:

(1) Provide the requester with the reason for denial.

(2) Inform the requester of his or her right to appeal the denial within 30 days.

(3) Give the name of the official to whom the appeal may be sent.

(c) If an unusual circumstance delays a decision concerning access to information, the requester will be informed of the delay within ten working days of the request's initial receipt. In no case will the decision be delayed more than 20 working days from initial receipt of the request.

(d) A copy of each denial of information will be furnished to the Secretary, ABMC at the time of its dispatch.

§ 404.5 Appeals.

(a) The Secretary is the appellate authority for all denials except those which he authors. The Chairman is the appellate authority for denials authored by the Secretary.

(b) The requester will be informed of the decision on his or her appeal within 20 working days after its receipt. If the denial is upheld, the requester will be advised that there are provisions for judicial review of such decisions under the Freedom of Information Act.

(c) In the event a court finds that the American Battle Monuments Commission has arbitrarily and capriciously withheld information from the public and a subsequent Office of Personnel